IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.55 OF 1996.

The Commissioner of Income-tax,
Kolhapur ... Applicant.

V/s.

The Ichalkaranji Co-op.Spg. Mills
Ltd. .. Respondent.

Shri Parag Vyas i/b H.D. Rathod for the applicant.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 29th August 2005.

P.C. :

. By this is a reference under section 256 (1) of the Income-tax Act, 1961, the Tribunal has referred the following questions of law for the opinion of this Court:

1." Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in treating the non-refundable deposits as loans when they were in realing trading receipts and when these deposits were meant also for discharging liabilities of the assessee society and not for the issue of shares and when the decision of the Bazpur Co-op.Sugar Factory (172 ITR 321) was fully applicable."

2. "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding, that the amount of non-refundable funds collected by the assessee from its members was assessee's liability when in fact the assessee had full domain over these moneys credited in a separate fund as the collection of these deposits was a part and parcel of the assessee's trading receipts."

. Learned Counsel for the Revenue fairly stated that the questions referred to us are squarely covered by the judgment of this Court in the case of **Siddheshwar Sahakari Sakhar Karkhana Ltd. vs. CIT (2004) 270 ITR 1(SC).** In that view of the matter, the reference is answered in favour of the assessee and against the Revenue.

. Reference accordingly stands disposed of with no order as to costs.

(J.P. DEVADHAR,J.) **(V.C. DAGA,J.)**